

**SECTION V**  
**Rules For Review Of Professional Conduct**

**RULE 521. Access To Information**

(a) **Availability of Information.** All proceedings and records relating to Professional Conduct, except the work product of Bar Counsel, a Hearing Committee or the Professional Conduct Board, shall be available to the public after the filing and service of Formal Charges, unless the Grievant or Respondent obtains a protective order for specific testimony, documents or records.

(b) **Confidentiality.** Prior to the filing and service of Formal Charges, a Professional Conduct matter is confidential, except that the pendency, subject and status of a Professional Conduct matter may be disclosed by Bar Counsel if:

- (1) the Lawyer has waived confidentiality in writing;
- (2) the matter is based upon allegations that include either the conviction of a crime or public reciprocal discipline;
- (3) the matter is based upon allegations that have become generally known to the public; or
- (4) there is a need to notify another person or organization, including the Client Assistance Fund, in order to protect the public, the administration of justice, or the legal profession.

(c) **Public Hearings.** After the filing and service of Formal Charges or a petition for reinstatement, the hearing of a

Professional Conduct matter is public, except for:

- (1) deliberations of a Hearing Committee, Professional Conduct Board, or Court; or
- (2) aspects of the hearing with respect to which a protective order is pending or issued.

(d) **Disability Inactive Proceedings.** Except as otherwise permitted by Rule 515, all proceedings and records relating to any transfer to or from disability inactive status are confidential. All orders transferring a Lawyer to or from disability inactive status are public.

(e) **Protective Orders.** In order to protect the interests of a Grievant, witness, third party, Lawyer or Respondent, the Hearing Committee to which a matter is assigned, or Chair of the Professional Conduct Board if the matter has yet to be assigned to a Hearing Committee, may, upon application of any person and for good cause shown, issue a protective order. The protective order shall prohibit the disclosure of specific information otherwise privileged or confidential and direct that the proceedings be conducted so as to implement the order, including requiring that the hearing be conducted in such a way as to preserve the confidentiality of the information that is the subject of the application.

(f) **Request for Nonpublic Information Relating to Discipline.** A request for nonpublic information other than that authorized for disclosure under subsection (b) above shall be denied unless the request is from one of the following agencies:

- (1) an agency authorized to investigate qualifications for admission to practice law;
- (2) a lawyer disciplinary enforcement agency;
- (3) an agency authorized to investigate qualifications for government employment; and
- (4) any other agency designated by the Supreme Court.

(g) **Disclosure with Notice to Lawyer.** Except as provided in subsection (h), if Bar Counsel decides to provide nonpublic information to a requesting agency, and if the Lawyer has not signed a waiver permitting the requesting agency to obtain nonpublic information, the Lawyer shall be notified in writing at his or her last known address of the information that has been requested and the agency making the request, together with a copy of the information proposed to be released. The notice shall advise the Lawyer that the information shall be released at the end of 14 days following mailing of the notice unless the Lawyer objects to the disclosure. If the Lawyer timely objects to the disclosure, the information shall remain confidential unless the requesting agency obtains a court order requiring its release.

(h) **Disclosure Without Notice to Lawyer.** If an authorized requesting agency has

not obtained a waiver from the Lawyer to obtain nonpublic information and requests that the information be released without giving notice to the Lawyer, the requesting agency shall certify, in writing, to the satisfaction of Bar Counsel that:

- (1) the request is made in furtherance of an ongoing investigation into misconduct by the Lawyer;
- (2) the information is essential to that investigation; and
- (3) disclosure of the existence of the investigation to the Lawyer would seriously prejudice that investigation.

(i) **Notice to National Discipline Data Bank.** Bar Counsel shall transmit notice of all public discipline imposed against a Lawyer, transfers to or from disability inactive status, and reinstatements to the National Discipline Data Bank maintained by the American Bar Association.

(j) **Scope of Duty.** All parties and witnesses in the process, together with all officials and employees of the agency authorized to receive information under these Rules, shall conduct themselves so as to maintain the confidentiality mandated by this Rule.

(k) **Order by Supreme Court to Make Public.** Notwithstanding any other provisions of these Rules, the Supreme Court may provide by order that review of Professional Conduct proceedings and/or records in a particular case, in all cases or in any class or group of cases, are open to the public, subject to special or protective orders of the Supreme Court. Bar Counsel and any other

member of the Bar or the public shall have standing to petition the Supreme Court for a determination leading to the waiver of confidentiality in such proceedings and/or records in particular cases, and the Supreme Court may grant or deny such petitions in whole or in part as, in its discretion and in the interests of justice, it deems proper.